

REMARKS

Claims 1-4, 7-21, and 23-26 are currently pending. Claims 18-21 and 23-26 are allowed, and claims 1-4 and 7-17 stand rejected. Applicants thank Examiner Comstock for extending the courtesy of a telephone interview to Applicants' undersigned representative on September 29, 2009. Independent claim 1 was discussed in view of the current rejection and agreement was reached that claim amendments of the type submitted herein overcome the rejection. All claims should now be in condition for allowance.

Claim Amendments

Independent claim 1 is amended to recite a tissue retractor and guide device having a guide member with at least one mating pin formed thereon and extending distally therefrom for mating to a spinal implant. Support for this amendment can be found throughout the specification and in the drawings, for example at page 9, lines 4-8 of the application. Dependent claim 7 is canceled. No new matter is added.

Claim Rejections

Claims 1, 2, 4, 7, 8, 14, 16, and 17 are rejected pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,686,972 of Kurland.

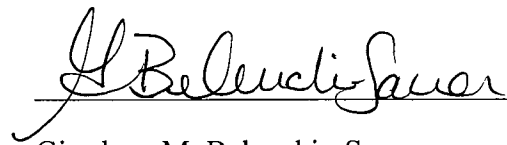
Independent claim 1 requires a tissue retractor and guide device having a guide member with at least one mating pin formed thereon and extending distally therefrom for mating to a spinal implant. As agreed in the interview, Kurland does not teach a mating pin extending distally from the guide member 21. Accordingly, claim 1, as well as claims 2, 4, 8, 14, 16, and 17 which depend therefrom, distinguish over Kurland and represent allowable subject matter.

Conclusion

Accordingly, all claims are in condition for allowance and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

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